

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19840
[REDACTED])	
Taxpayer.)	DECISION
)	
)	

On August 29, 2006, the staff of the Sales, Use, and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing sales and use tax and interest for the period January 1, 2003, through December 31, 2005, in the total amount of \$89,626.

In a letter dated October 31, 2006, the taxpayer's authorized representative filed a timely appeal and petition for redetermination. The petition stated several disagreements of fact and law that the taxpayer wished to discuss at a hearing. The Commission held a hearing at the taxpayer's request on January 30, 2007. Three of the taxpayer's representatives were in attendance. They agreed that the taxpayer would seek and provide additional documentation, previously unavailable during the audit fieldwork, in an effort to lower the deficiency.

Neither the taxpayer nor its representatives provided additional documentation, but two of the representatives requested another meeting with a member of the Commission's Policy Section and the auditor. That meeting, held on June 5, 2007, ended with the Commission believing that there were no disagreements with respect to the applicable tax statutes. The Commission agreed to make an adjustment to the work papers based on information discussed at the January 30, 2007, hearing, and the taxpayer's representatives said they would provide additional documentation, if available, by the end of June, 2007.

The Commission stressed the importance of receiving any additional information by the end of June because of the deadline established in Idaho Code § 63-3045B. That statute requires that a final decision must be rendered within 180 days from the conclusion of a hearing unless a compromise is reached, the Commission withdraws the Notice of Deficiency Determination, or the taxpayer requests in writing and receives a waiver from that requirement. As of this writing, the Commission has not received any additional information that would further modify the adjusted deficiency. In order to preserve its rights, the Commission hereby issues this decision upholding the adjusted deficiency amount.

The taxpayer has not provided the Commission with information to establish that the amount asserted is incorrect. As a result, the Commission will uphold the tax deficiency notice, as adjusted, for the period January 1, 2003, through December 31, 2005. A determination of the State Tax Commission is presumed to be correct (*Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)) and the burden is on the taxpayer to show that the deficiency is erroneous (*Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986)).

Absent information to the contrary, the Commission finds the deficiency prepared and later adjusted by the Bureau to be a reasonably accurate representation of the taxpayer's sales and use tax liability for the period January 1, 2003, through December 31, 2005.

The Bureau added interest to the sales and use tax deficiency and this has been updated to the present. The Commission reviewed this addition and found it to be appropriate per Idaho Code § 63-3045. Further, the Commission notes that the taxpayer has made a payment toward the deficiency.

WHEREFORE, the Notice of Deficiency Determination dated August 29, 2006, as MODIFIED, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS HEREBY ORDERED and THIS DOES ORDER that taxpayer pay the following tax and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$70,862	\$11,372	\$ 82,234
	Less Payment	<u>\$(29,313)</u>
	Amount Due	<u>\$ 52,921</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
